

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

60067

FILE: B-193711  
MATTER OF:

DATE: OCT 21 1975

97809

Federal Employees--Retention of jury expense money

DIGEST:

Where Georgia statute provides for reimbursement of expenses from \$5 to \$25 per day as determined by county grand juries for next year jurors, GAO will not look beyond prima facie intent of statute since varying amount seems reasonable in statute that covers entire State and therefor may be retained by Federal employees who serve on juries pursuant to 5 U.S.C. 6322(a) (1970). See 52 Comp. Gen. 325 (1972).

This decision is in response to a submission by Mr. Peter J. Verdin, an Authorized Certifying Officer of the Federal Aviation Administration (FAA), Department of Transportation, dated April 18, 1975, which requests our decision as to whether a government employee may retain an "expense allowance" which was received for service as a juror in the State of Georgia.

An employee of the FAA who resides in Georgia was called for jury duty in the Bibbs County Superior Court, Georgia and served for 4 days. Section 59-120 of the Georgia Code Annotated (Supp. 1974) provides, in pertinent part, as follows:

"The first grand jury impaneled at the fall term of the superior courts of the several counties shall fix:

\* \* \* \* \*

"(b) An expense allowance for jurors in the superior court of such counties for the next succeeding year, such expense allowance not to be less than \$5 nor to exceed \$25 per diem. The same expense allowance shall be allowed to jurors of the several State courts and special courts as is allowed jurors in the superior court of the county in which the State or special court is located. The expense allowance of

tales jurors shall be the same as that of a regularly drawn traverse juror. The expense allowance so authorized by the grand jury shall be authorized also for grand jurors."

The employee was paid \$8 per day as an expense allowance pursuant to the above-cited statute for a total of \$32. While the employee served on jury duty he was granted jury service leave from his position with the FAA pursuant to 5 U.S.C. 6322(a) (1970). In this regard, section 5515 of title 5, U.S. Code (1970), provides that any amount received from the state by an employee for service as a juror during a period for which he is entitled to leave under section 6322(a) of title 5 shall be credited against the amount of compensation payable by the United States for such period of absence. Mr. Verdin cites our Decision in 52 Comp. Gen. 325 (1972) and asks whether it has application to the expense allowance provided by the Georgia statute cited above.

Our Decision cited above dealt with a statute of the State of Maryland that was quite similar to the Georgia statute in that both statutes provide for an expense allowance. We noted, at 52 Comp. Gen. 326, that:

"we do not require a Federal employee who has served as a juror in a State court to remit to the Federal Government that part of the compensation he receives from the State to cover traveling expenses where it is clear that a specific amount is received for such purpose."

While the amount which Georgia juries may receive for expenses per day can vary from year to year, nonetheless a specific amount is set for each year by the first grand jury of the fall term of the superior courts of the several counties of the prior year. Further, it would appear to be a reasonable attempt to provide for the expenses of jurors on a state-wide basis where expenses vary from county to county and from year to year. Finally, the statute states that the monies provided are for expense allowances.

Since the prima facie intent of the statute is merely to reimburse the jurors for out of pocket expenses and the amount provided therefor does not appear to be unreasonable, we will

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not object to the amount received by the jurors being treated as an expense allowance rather than compensation in the nature of a salary.

Accordingly, in response to your specific question, employees who serve on juries in the State of Georgia may retain monies paid to them on the basis that such monies are reimbursement for expenses rather than jury fees.

R. P. MILLER

Deputy

Comptroller General  
of the United States